

Electric Coop Annual Meeting
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Good morning. My thanks to Barry¹ and all the members of the Electric Coop for the opportunity to meet and speak with you today.

One of my responsibilities as Attorney General is to protect and preserve Missouri's sovereignty from federal overreach, particularly when it comes to environmental regulation.

This duty comes from my sincere conviction that the people in the best position to manage Missouri's soil, air, and water resources are those who actually live on Missouri land, breathe Missouri air, and drink Missouri water. Not folks who live in Washington D.C.

Guarding our state's right to regulate land use within the borders of Missouri is not just a matter of principle. It's a matter of necessity for the protection and prosperity of our economic future.

My experience of the last seven years has undermined what little confidence I may once have had in the Environmental Protection Agency, and I now find myself second-guessing its judgment each time the agency issues a new rule or re-interprets the scope of its own authority.

I'll give you four recent examples.

In 2014, the EPA issued a new rule on mercury emissions. The Agency estimated it would cost power plants upwards of 9.6 Billion dollars per year to achieve environmental benefits worth 4 to 6 Million dollars per year.

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Barry Hart, CEO

Think about that . . .

EPA was going to increase consumers' annual energy costs by nearly 10 Billion dollars to achieve 6 Million dollars' worth of environmental improvements.

Despite this ridiculous calculation, EPA concluded that "cost was irrelevant to the decision to regulate."²

Missouri and 22 other states sued EPA to block that rule from taking effect.

Despite the highly deferential standard of review federal courts give to EPA rulemaking, the United States Supreme Court agreed with Missouri and struck down the mercury emissions standards this past June as an unreasonable interpretation of the Clean Air Act.

Unshaken by this defeat in the nation's highest court, later that same day EPA issued yet another rule . . . this one redefining "Waters of the United States" to include practically everything from dry creek beds . . . to farm lands in a 100-year floodplain . . . to the ground where my own desk sits in Jefferson City.

It was a power grab of unprecedented proportions, pulling nearly 97% of Missouri's territory within EPA's jurisdiction.

Three separate coalitions of states have sued the EPA in federal courts across the country to invalidate the final WOTUS rule.

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Michigan v. E.P.A., 135 S. Ct. 2699, 2710, 192 L. Ed. 2d 674 (2015)

On August 27, Missouri's coalition obtained a preliminary injunction from the United States District Court in North Dakota, halting EPA's implementation of the new rule in Missouri and a dozen other states while our legal challenges are pending.

Despite a federal judge's finding that the WOTUS rule is most likely unlawful, EPA has proceeded to implement the rule in 37 other states.

Thankfully, Missouri is exempt from compliance, for now . . . but only because you and I stood up against EPA and sued them.

The thing I find most frustrating about EPA's determination to micromanage our state's soil, streams, and sky is EPA's utter failure to take action when I have asked them to assist in a legitimate crisis – where EPA's expertise and responsibility are clear. In moments of actual need EPA is nowhere to be found!

In 2013, my office sued a company called Republic Services, Inc., because the giant landfill it operates in Bridgeton, Missouri – just west of the St. Louis International Airport - stinks of burning plastic and rotten eggs.

Unfortunately, the nauseous smell may be the least of the landfill's problems. As we speak, an uncontrolled subsurface fire is burning its way through the north end of the landfill toward a radioactive waste dump on the adjoining property.

EPA designated the entire area a Superfund site 25 years ago, but it has never tried to remove, contain, or even measure the spread of the radiological material stored there.

For two years, I have urged EPA officials to take action before the fire reaches the radioactive waste dump. Time and again, EPA has promised solutions, but has failed to act.

Now, in yet another act of Washington overreach, EPA is poised to publish its final version of the Clean Power Plan, which appears to extend its jurisdiction under the Clean Air Act even further than WOTUS stretches the Clean Water Act.

In the draft rule issued for public comment, EPA proposed that Missouri achieve a 21% decrease from its 2005-level carbon-emissions footprint by 2030. That was itself an ambitious goal.

But the final rule increases EPA's proposed compliance standards an additional 76%. Over the next 15 years, Missouri would have to reduce carbon emissions to less than two thirds of where Missouri's emissions were a decade ago, when our state had a quarter of a million fewer residents.

Moreover, the final rule fails to give Missouri any credit for major investments that energy producers have made in wind power since 2012—credits that were allowed under EPA's draft rule but are now explicitly disallowed under EPA's final version.

Assuming the EPA's final compliance standard is even possible, it's clearly not affordable . . .

. . . Not affordable for senior citizens in small towns across Missouri, where Social Security is often the primary source of income . . .

. . . Not affordable for Missouri's economy, whose major competitive advantage in the fight for jobs is our significantly lower energy costs relative to other states.

Using figures provided by the EPA, Missouri's utilities estimate that complying with the Clean Power Plan by 2031 will cost Missouri consumers more than 6 billion dollars. That's one quarter of the State's annual budget. It's six times what the state currently spends on higher education each year.

Missouri enjoys some of the lowest energy costs of any state—just nine cents per kilowatt hour. That’s good news for our residents. It’s even better news for companies contemplating a move to Missouri. Our low energy costs are the reason Ford Motor Co. is doing more work at its Claycomo plant than anywhere else in the nation.

But the EPA’s Clean Power rule effectively eliminates Missouri’s competitive advantage as a low energy-cost state.

In this increasingly global market, it is important that state policy makers make decisions that appropriately protect Missouri’s competitive footing.

My skepticism about EPA’s Clean Power Plan is not solely a question of practicality. It’s also a question of legality. A significant question exists whether the final rule goes beyond EPA’s authority to set emission standards.

The Clean Air Act may authorize EPA to regulate sources of pollution, but it does not empower the agency to mandate the mix of traditional and renewable energy sources “beyond the fence line” of any given plant. Nor does it empower the agency to override Missouri’s elected representatives in setting energy policy for this state.

For these reasons, I have decided to file suit against the EPA as soon as the final rule is published.

Look folks, I believe that climate change is real, and cleaner energy production is an important state goal, one Missouri’s energy producers are already aggressively working toward.

In the last 10 years, Missouri producers have added over 2,200 megawatts of generating capacity from wind power and other renewables, a number that will quickly increase in the coming years.

Moreover, each of us agree - renewable energy is a vital piece of our state's energy portfolio, one Missouri should embrace and incentivize. Over the next 15 years, investment in renewables will bring new jobs and businesses to our state.

However, it is essential that we achieve these goals in a responsible way that makes sense for Missouri's economy and Missouri's future.

The Supreme Court has already told us that EPA overstepped its authority with the mercury emission standards. The federal judge presiding over Missouri's challenge to Waters of the United States has ruled that we are likely to succeed on the merits of that case as well.

And when the Clean Power Rule is finalized in the coming days, Missouri will stand up and join those states who believe that EPA has, once again, overreached the authority granted it by Congress.

So long as I serve this state, I will always make the choices necessary to keep Missouri independent and economically strong.

Thank you for your friendship and for having me here today.

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